

COUNTY NOTICES PURSUANT TO A.R.S. § 49-112(A) or (B)

NOTICE OF PUBLIC HEARING

MARICOPA COUNTY

ENVIRONMENTAL SERVICES DEPARTMENT - AIR QUALITY DIVISION

1. Heading and number of the proposed rules, ordinance, or other regulations that are the subject to the public hearing:

Rule 100 (General Provisions and Definitions)

Rule 200 (Permit Requirements)

Appendix D (List of Insignificant Activities)

Appendix E (List of Trivial Activities)

2. Date, time, and location of public hearing scheduled:

Date: Wednesday, August 22, 2001

Time: 9:00 a.m.

Location: Maricopa County Board of Supervisors Auditorium
205 W. Jefferson St.
Phoenix, AZ

Nature Of Public Hearing: To discuss and approve the above listed rules

3. County personnel to whom questions and comments may be addressed:

Name: Johanna Kuspert, Air Quality Planner

Address: Maricopa County Environmental Services Department
Air Quality Division
1001 N. Central Avenue #695
Phoenix, AZ 85004

Telephone: (602) 506-6710

Fax: (602) 506-6179

4. Any other pertinent information concerning the above described rules, ordinance, or other regulations:

Please refer to the Notice of Proposed Rules that appears in this issue of the *Register* (below).

NOTICE OF PROPOSED RULES

MARICOPA COUNTY

ENVIRONMENTAL SERVICES DEPARTMENT - AIR QUALITY DIVISION

1. Heading and number of the proposed rule, ordinance, or other regulations:

Rule 100 (General Provisions and Definitions)

Rule 200 (Permit Requirements)

Appendix D (List of Insignificant Activities)

Appendix E (List of Trivial Activities)

2. Summary of the proposed rules, ordinance, or other regulations:

On October 30, 1996, the Environmental Protection Agency (EPA) published in the Federal Register (61 FR 55910) a notice of final interim approval of Maricopa County's Title V Permit Program. In the notice, EPA cited 11 deficiencies in rules that comprise Maricopa County's Title V Permit Program. Since 1996, Maricopa County has revised the appropriate rules to correct these 11 deficiencies. Recently, however, EPA has provided additional guidance on how to correct three of the 11 deficiencies. Consequently, Maricopa County is proposing to revise Rule 100 (General Provisions and Definitions), Rule 200 (Permit Requirements), Appendix D (List of Insignificant Activities), and Appendix E (List of Trivial Activities) in order to correct these three deficiencies and to correct other references and typographical errors.

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In Rule 100 (General Provisions and Definitions), Maricopa County is proposing the following revisions:

Correct an error in Rule 100, Section 200.43 (Definition of Emission Standard). As currently written, the definition of emissions standard reads: “The definition of emission standard is set forth in A.R.S. § 49-414(T) and A.R.S. § 49-464(U)”. The reference “A.R.S. § 49-464(U)” is incorrect; it should be “A.R.S. § 49-464(V)”. However, instead of just correcting the reference, Maricopa County is proposing to write out the text of both references combined, because there is some text that is similar in both references and because actually writing out the text of the reference is easier for our readers; they won’t have to search through the Arizona Revised Statutes. Maricopa County is proposing, then, to re-write Rule 100, Section 200.43 to read: “Emission Standard – A numeric limitation on the volume or concentration of air pollutants in emissions from a source or a specific design, equipment, or work practice standard, the purpose of which is to eliminate or reduce the volume or concentration of pollutants emitted by a source. The term emission standard does not include opacity standards. Violations of emission standards shall be determined in the manner prescribed by the applicable regulations issued by the Administrator of EPA or the Director or the Control Officer”. This proposed definition is the combination of A.R.S. § 49-514(T), which reads: “For the purpose of this section, the term “emission standard” means a numeric limitation on the volume or concentration of air pollutants in emissions from a source or a specific design, equipment, or work practice standard, the purpose of which is to eliminate or reduce the volume or concentration of pollutants emitted by a source. The term emission standard does not include opacity standards. Violations of emission standards shall be determined in the manner prescribed by the applicable regulations issued by the Administrator of EPA or the Director or the Control Officer”, and A.R.S. § 49-464(V), which reads: “For the purpose of this section, “emission standard” means a numeric limitation on the volume or concentration of air pollutants in emissions from a source or a specific design, equipment, or work practice standard, the purpose of which is to eliminate or reduce the volume or concentration of pollutants emitted by a source. Emission standard does not include opacity standards. Violations of emission standards shall be determined in the manner prescribed by the applicable regulations issued by the Administrator of EPA or the Director”.

Add the following text to Rule 100, Section 200.58 (Definition of Insignificant Activity): “no more than 0.5 ton per year of a Federal hazardous air pollutant (HAP) and no more than 2 tons per year of a regulated air pollutant that is not a HAP” and “or is approved as an insignificant activity under Rule 200 of these rules”. Delete the last three sentences regarding Appendix D (List of Insignificant Activities) because such sentences are included in the introduction in Appendix D.

Add the following text to Rule 100, Section 200.108 (Definition of Trivial Activity): “may be omitted from a Title V permit application or a Non-Title V permit application” and “or is approved as a trivial activity under Rule 200 of these rules”. Delete the last three sentences regarding Appendix E (List of Trivial Activities) because such sentences are included in the introduction in Appendix E.

Correct reference in Section 502 (Data Reporting); Change “Section 503” to “Section 501”.

Clarify in Section 504 (Retention of Records) that information, records, and reports must be retained for 5 years, but Non-Title V sources may retain such information, records, and reports for less than 5 years if otherwise allowed by Maricopa County rules.

In Rule 200 (Permit Requirements), Maricopa County is proposing the following revisions:

Delete Section 102 (Effective Date of This Rule) in its entirety.

Add Section 200 (Definitions), which will read: “Section 200 – Definitions (Not Applicable) See Rule 100 (General Provisions And Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule”.

Add new Subsection 308.1 (Standards For Applications-Insignificant Activities). New Subsection 308.1 will replace text in the introduction of Appendix D (List of Insignificant Activities), because such text should be in the body of the rules themselves and not solely in the appendix. New Subsection 308.1 will read: “(a) A Title V source must, in a permit application, list and generally group insignificant activities, which are defined in Rule 100 (General Provisions and Definitions) of these rules and which are listed in Appendix D (List of Insignificant Activities) of these rules. If emissions estimates are needed for another purpose, such as determining the amount of permit fees, then such Title V source may also be required to include, in a permit application, emissions calculations for such insignificant activities. (b) A Non-Title V source is not required to list nor to describe, in a permit application, insignificant activities, which are defined in Rule 100 (General Provisions and Definitions) of these rules and which are listed in Appendix D (List of Insignificant Activities) of these rules. If a Non-Title V source’s emissions are approaching an applicable requirement, then such Non-Title V source may also be required to include, in a permit application, a description of its insignificant activities and emissions calculations for such insignificant activities. Maricopa County reserves the right to request emissions calculations for insignificant activities, if such insignificant activities would make the

source a major source. (c) Any activity that is not included in Appendix D (List of Insignificant Activities) of these rules may be considered an insignificant activity, if such activity meets all of the following criteria: (1) Is not otherwise subject to an applicable requirement, (2) Is not needed in a permit application in order to determine all applicable requirements and to calculate any fee under these rules because emissions are no more than 0.5 ton per year of a Federal hazardous air pollutant (HAP) and no more than 2 tons per year of a regulated air pollutant that is not a HAP, and (3) Is approved by the Control Officer and the Administrator of the Environmental Protection Agency (EPA)".

Add new Subsection 308.2 (Standards For Applications-Trivial Activities). New Subsection 308.2 will replace text in the introduction of Appendix E (List of Trivial Activities), because such text should be in the body of the rules themselves and not solely in the appendix. New Subsection 308.2 will read: "(a) A Title V source is not required, in a permit application, to list trivial activities, to describe trivial activities, nor to include the emissions from trivial activities, which are defined in Rule 100 (General Provisions and Definitions) of these rules and which are listed in Appendix E (List of Trivial Activities) of these rules. (b) A Non-Title V source is not required, in a permit application, to list trivial activities, to describe trivial activities, nor to include the emissions from trivial activities, which are defined in Rule 100 (General Provisions and Definitions) of these rules and which are listed in Appendix E (List of Trivial Activities) of these rules. (c) Any activity that is not included in Appendix E (List of Trivial Activities) of these rules may be considered a trivial activity, if such activity meets all of the following criteria: (1) Is not conducted as part of a manufacturing process, (2) Is not related to the source's primary business activity, (3) Does not otherwise trigger a permit revision, and (4) Is approved by the Control Officer and the Administrator of EPA".

Add the text, "and shall have been issued an air quality permit", to Subsection 312.5(a) (Transition From Installation and Operating Permit Program To Unitary Permit Program-Sources Not Under Permit). Subsection 312.5(a) will read: "All sources not in existence prior to the effective date of these rules shall first submit to the Control Officer an air quality permit application for the entire source and shall have been issued an air quality permit before commencing construction of such source".

Add the word, "and", to Subsection 312.5(b) (Transition From Installation and Operating Permit Program To Unitary Permit Program-Sources Not Under Permit). Subsection 312.5(b) will read: "All sources in existence on the date these rules become effective and not holding a valid installation and/or a valid operating permit issued by the Control Officer, which have not applied for a Non-Title V permit pursuant to these rules, shall submit to the Control Officer a permit application for the entire source".

Add new Subsection 312.5(c) (Transition From Installation and Operating Permit Program To Unitary Permit Program-Sources Not Under Permit), which will read: "All sources in existence on the date these rules become effective and not holding a valid installation permit and/or a valid operating permit issued by the Control Officer, which have not applied for a Title V permit pursuant to these rules, shall submit to the Control Officer a Title V permit application no more than 12 months after becoming subject to Title V permit requirements".

Add the heading: "Section 500 – Monitoring And Records (Not Applicable)".

In Appendix D (List of Insignificant Activities) and in Appendix E (List of Trivial Activities), Maricopa County is proposing the following revisions:

Add to the introduction of Appendix D the text, "...and which emit no more than 0.5 ton per year of a Federal hazardous air pollutant (HAP) and no more than 2 tons per year of a regulated air pollutant that in not a HAP".

Delete from the introduction of Appendix D the text, "Any activity that is not included in Appendix D (List of Insignificant Activities) and that is not otherwise subject to an applicable requirement may be considered an insignificant activity, if approved by the Control Officer and the Administrator of the Environmental Protection Agency (EPA). Maricopa County reserves the right to request emissions calculations for insignificant activities, if such insignificant activities would make a source a major source". This text will be added to Rule 200 (Permit Requirements), new Subsection 308.1 (Standards For Applications-Insignificant Activities).

Delete activities that are listed in Appendix D and add activities that are not listed in Appendix D, as appropriate, in order for Appendix D to match the document titled "Model List of Insignificant Activities for Title V Permit Programs", which is part of an EPA guidance titled "Title V Permit Review Guidelines", and to match the Arizona Department of Environmental Quality's (ADEQ's) definition of insignificant activities.

Delete from the introduction of Appendix E (List of Trivial Activities) the text, "Any other activity that is not included in Appendix E (List of Trivial Activities), that is not conducted as part of a manufacturing process, that is not related to a source's primary business activity, and that does not otherwise trigger a permit revision, may be considered a trivial activity, if approved by the Control Officer and the Administrator of the Environmental Protection Agency (EPA)". This text will be added to Rule 200 (Permit Requirements), new Subsection 308.2 (Standard For Applications-Trivial Activities).

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Delete activities that are listed in Appendix E and add activities that are not listed in Appendix E, as appropriate, in order for Appendix E to match EPA's document titled "List of Activities That May Be Treated as 'Trivial'".

Provide to EPA the following explanation regarding what "that is not otherwise subject to an applicable requirement" means, as written in the definition of insignificant activity in Rule 100 (General Provisions and Definitions): "Maricopa County's definition of insignificant activity matches the Arizona Department of Environmental Quality's (ADEQ's) definition of insignificant activity. Both definitions use the phrase, "that is not otherwise subject to an applicable requirement". Both definitions comply with the criteria for identifying insignificant activities in permit application, as described in 40 Code of Federal Regulations (CFR) Part 70. According to 40 CFR Part 70, the first criteria for identifying insignificant activities in permit applications is that, for activities on the list, applicants may exclude from Part 70 permit applications information that is not needed to determine which applicable requirements apply. Both Maricopa County's definition of insignificant activity and ADEQ's definition of insignificant activity meet the first criteria, by limiting insignificant activities to only those which are not otherwise subject to an applicable requirement".

3. A demonstration of the grounds and evidence of compliance with A.R.S. 49-112(A) or (B):

The Control Officer of the Maricopa County Environmental Services Department affirms the following:

Pursuant to A.R.S. § 49-112(A), as enacted in 1994, Maricopa County may adopt rules that are more stringent than or in addition to a provision of the State, provided that the rule is necessary to address a peculiar local condition; and if it is either necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible or if it is required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule is equivalent to federal statutes or regulations; and if any fee adopted under the rule will not exceed the reasonable costs of the county to issue and administer that permit program.

Maricopa County is in compliance with A.R.S. § 49-112(A) in that Maricopa County is proposing to adopt revisions to Rules 100, 200, and Appendices D and E that are *not* more stringent than nor are in addition to a provision of A.R.S. Title 49 or rules adopted by the Director of ADEQ or any Board or Commission authorized to adopt rules pursuant to A.R.S. Title 49.

The Section 112(B) demonstration does not apply because these particular rules are in that portion of Maricopa County's air quality program, which is administered under direct statutory authority. Therefore, these rules are not being adopted/revised in lieu of a state program.

4. Name and address of the person to whom persons may address questions or comments:

Name: Johanna Kuspert, Air Quality Planner
Address: Maricopa County Environmental Services Department
Air Quality Division
1001 N. Central Avenue #695
Phoenix, AZ 85004
Telephone: (602) 506-6710
Fax: (602) 506-6179

5. Where persons may obtain a full copy of the proposed rules, ordinance, or other regulations:

Name: Maricopa County Environmental Services Department
Air Quality Division
Address: 1001 North Central Avenue #201
Phoenix, AZ 85004
Telephone: (602) 506-6010
Fax: (602) 506-6179